

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 22ND NOVEMBER 2006 / 1ST AGRAHAYANA 1928

Crl.MC.No. 2493 of 2006()

CC.260/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, PALAKKAD

PETITIONER: APPELLANTS

1. SAYED ALI, S/O. MOHAMMED MASTER,
RESIDING AT VARIKODAN HOUSE, MANALADI,
THENKARA, MANNARKAD, PALGHAT.
2. UMMACHU, W/O. SAYED ALI,
RESIDING AT VARIKODAN HOUSE, MANALADI,
THENKARA, MANNARKAD, PALGHAT.

BY ADV. SRI.VINOD KUMAR.C

RESPONDENTS:

1. SHARMILA, D/O. ALI,
AMBEDKAR ROAD, KALLEKAD POST, PALGHAT.
2. STATE, REP. BY
SUB INSPECTOR OF POLICE, MANNARKAD POLICE
STATION, REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.K.K.DHEERENDRAKRISHNAN
PUBLIC PROSECUTOR SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 22/11/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 2493 OF 2006

Dated this the 22nd day of November, 2006

ORDER

The petitioners are accused 2 and 3 in a prosecution under Sec.498A of the IPC. The 1st accused is their son. The respondent – their daughter-in-law, had filed a complaint before the police and the police, after investigation, had filed a final report raising allegations against the petitioners and their son under Sec.498A read with Sec.34 of the IPC. Cognizance was taken by the learned Magistrate. The case is pending before the learned Magistrate now.

2. The petitioners have come before this Court with a prayer that the accused had settled all their disputes with the 1st respondent/the complainant and that the 1st respondent has compounded the offences committed by all the three accused persons. In these circumstances, though the offence under Sec.498A of the IPC is not compoundable under Sec.320 of the Cr.P.C., it is prayed that invoking the dictum in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) this Court may be pleased to invoke its powers under Sec.482 of the Cr.P.C. and quash the proceedings against all the three accused persons.

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3. The 1st respondent/complainant has entered appearance through counsel. She has filed an affidavit to confirm the fact that the matter has been settled and the offences allegedly committed by all the three accused persons have been compounded.

4. Though the offence under Sec.498A of the IPC is not compoundable, I am satisfied that, in the facts and circumstances of this case, where the matrimonial dispute has been amicably settled between the parties, the dictum in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) can be invoked and the prosecution initiated by the 1st respondent against the petitioners and their son can be prematurely terminated by invoking the powers under Sec.482 of the Cr.P.C.

5. In this result:

(a) This Crl.M.C. is allowed.

(b) C.C.No.260/06 on the file of the Judicial Magistrate of the First Class-II, Palakkad, shall stand quashed in so far as it relates to all the three accused persons in the said case.

Sd/-

(R. BASANT, JUDGE)

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P.S. To Judge